

LEE, TRAN & LIANG A Professional Law Corporation
Enoch H. Liang (CA Bar No. 212324)
Daniel Yu (CA Bar No. 245091)
601 South Figueroa Street, Suite 4025
Los Angeles, CA 90017
Tel: 213-612-3737
Fax: 213-612-3773
Email: ehl@ltlcounsel.com; dy@ltlcounsel.com

Attorneys for Plaintiff Dai Xuchu, as bankruptcy administrator for
Changzhou AMEC Eastern Tools & Equipment Co., Ltd., and for
Counterdefendant Changzhou AMEC Eastern Tools & Equipment Co., Ltd.

Rodney W. Bell (SBN 125314)
(rbell@changcote.com)
Audrey L. Khoo (SBN 254007)
(akhoo@changcote.com)
CHANG & COTE, LLP
19138 E. Walnut Drive North, Suite 100
Rowland Heights, CA 91748
Telephone: (626) 854-2112
Facsimile: (626) 854-2120

Attorneys for Defendants/Counterclaimants
EASTERN TOOLS & EQUIPMENT, INC.,
and GUOXIANG FAN

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, EASTERN DIVISION

XUCHU DAI, as the bankruptcy
administrator for CHANGZHOU
AMEC EASTERN TOOLS AND
EQUIPMENT CO., LTD.
Plaintiff,

v.

EASTERN TOOLS & EQUIPMENT,
INC., a California corporation, and
GUOXIANG FAN, an individual,
Defendants.

AND RELATED COUNTERCLAIMS

Case No. EDCV11-0354 VAP (DBTx)

JOINT REPORT OF COUNSEL
[Fed.R.Civ.P. 26(f) and L.R. 26-1]

Date: June 13, 2011
Time: 1:30 p.m.
Ctrm: Courtroom 2
3470 Twelfth St.
Riverside, CA

The Honorable Virginia A. Phillips

1 **I. INTRODUCTION.**

2 Pursuant to Fed.R.Civ.P. 26(f) and L.R. 26-1, an in-person meeting was held
3 on May 18, 2011 and was attended by:

4 Enoch H. Liang, attorney for Plaintiff;

5 Rodney W. Bell, attorney for Defendants/Counterclaimants

6 During the meeting, the parties discussed various issues regarding this
7 litigation, including their respective positions as to the appropriate timing and scope
8 of discovery, expert disclosures, motion practice, and trial. Those positions and the
9 parties' proposals to the Court are set forth below.

10
11 **II. FACTUAL SUMMARY OF THE CASE.**

12 Pursuant to the Court's Order Setting Scheduling Conference, the parties
13 provide the following factual summary of the case:

14 A. Plaintiffs' Complaint / Defendants' Answer and Counterclaim

15 Plaintiff Xuchu Dai ("Plaintiff"), as the bankruptcy administrator for Counter-
16 Defendant Changzhou AMEC Eastern Tools and Equipment Co., Ltd. ("AMEC")
17 brings this action against Defendants to confirm and enforce a foreign arbitral award
18 under the Convention on the Recognition and Enforcement of Foreign Arbitral
19 Awards ("New York Convention"), 9 U.S.C. Sections 201-208, and the Federal
20 Arbitration Act ("FAA"), 9 U.S.C. Sections 1-16. An arbitral award was rendered
21 in Plaintiff's favor by the China International Economic and Trade Arbitration
22 Commission ("CIETAC") on December 29, 2009.

23 Defendants answered on April 4, 2011 and counterclaimed against
24 Changzhou AMEC Eastern Tools and Equipment Co. Ltd. for a declaratory
25 judgment that the subject award was not subject to confirmation under the New
26 York Convention. Defendants also raised affirmative defenses.

27 B. Other Defendants

28 All defendants have appeared in the action.

1 **III. DISCOVERY PLAN.**

2 The parties jointly propose the following discovery plan:

3
4 A. Initial Disclosures

5 The parties agree to make and complete their initial disclosures pursuant to
6 Fed.R.Civ.P. 26(a)(1) by June 24, 2011.

7
8 B. Subjects of Discovery

9 The parties agree discovery will be needed on the following topics:

- 10 1. The circumstances surrounding the execution of the July 26,
11 2007 Agreement and the April 26, 2007 Agreement, each purportedly
12 providing for arbitration of disputes among the Parties.
13 2. Whether Defendants waived objecting to the enforceability of the
14 arbitration agreement by fully participating in the arbitration.
15 3. The procedural background relating to the CIETAC arbitration.

16
17 C. Discovery Completion Date

18 The parties propose that all non-expert discovery be served sufficiently early
19 so that responses are due by and depositions are completed by October 31, 2011.

20
21 D. Expert Witnesses

22 The parties will also make any required expert disclosures pursuant to Federal
23 Rule of Civil Procedure 26(a)(2) and Local Rule 26-1, but according to the
24 following schedule:

- 25 • Federal Rule of Civil Procedure 26(a)(2)(A) and 26(a)(2)(B) disclosures
26 to be made no later than 2 weeks after the close of fact discovery;
27 • Federal Rule of Civil Procedure 26(a)(2)(C)(ii) disclosures to be made
28 within 45 days after the close of fact discovery; and,

- All remaining expert discovery to be completed 75 days after the close of fact discovery.

E. Disclosure or Discovery of Electronically-Stored Information

The parties do not believe that electronically-stored information (“ESI”) will play a significant role in discovery in this case. The parties have agreed that all documents and information are to be produced in paper format, but each party may request electronic copies of any paper documents produced.

To the extent that there is ESI, the parties will meet and confer to produce electronic documents in a mutually agreeable form. Any ESI shall not be destroyed, deleted, or otherwise discarded.

F. Handling of Privilege Claims and Confidentiality Claims

The parties propose that privilege logs be produced no later than thirty (30) days after responsive documents are produced or withheld.

If necessary, the parties agree to provide a proposed stipulated protective order to the Court governing the treatment of confidential or proprietary information.

G. Changes in Limitations on Discovery / Phased Discovery

The parties agree there should be no changes or limitations to the rules of discovery as set forth in the Federal Rules of Civil Procedure and Local Rules of the Central District.

The parties are of the view that it is not necessary to conduct discovery in phases or that discovery should not be limited to, or focused on, particular issues at this time.

1 **III. ADDITIONAL LOCAL RULE 26-1 MATTERS.**

2 A. Complexity of Case

3 The parties do not anticipate that this case will be sufficiently complex as to
4 require the procedures of the Manual for Complex Litigation.

5
6 B. Magistrate Judge

7 The parties do not consent to have a Magistrate Judge preside over all
8 proceedings.

9
10 C. Motion Schedule

11 The parties propose the following cutoff date by which all potentially
12 dispositive motions shall be served and filed: February 6, 2012.

13
14 D. Settlement

15 The parties believe settlement cannot be evaluated prior to the completion of
16 at least some initial discovery. Pursuant to L.R. 16-15.4, the parties recommend that
17 the Court approve Settlement Procedure No. 1.

18
19 E. Trial Estimate

20 The parties estimate that a bench trial of this matter will require no more than
21 3 days.

22
23 F. Additional Parties

24 Not applicable. All possible parties have been joined.

IV. OTHER MATTERS.

A. Pretrial Conference

The parties request a pretrial conference on or around March 12, 2012.

B. Pretrial Disclosures

The parties agree pretrial disclosures and final lists of exhibits and witnesses under Fed. R. Civ. P. 26(a)(3) shall be served and filed by February 27, 2012 (Plaintiff). The parties further agree objections to trial exhibits and witnesses identified shall be served and filed by March 5, 2012.

V. SUMMARY OF PROPOSED DATES.

<u>Event</u>	<u>Parties' Proposed Dates</u>
Initial Disclosure Exchange	June 24, 2011
Last to Amend Pleadings or Add Parties	July 1, 2011
Fact Discovery Cut-off	October 31, 2011
Expert Witness Disclosure	November 14, 2011
Written Expert Report Exchange Deadline	November 14, 2011
Rebuttal Expert Disclosure and Rebuttal Report Exchange Deadline	December 15, 2011
Close of Expert Discovery	January 16, 2012
Dispositive Motion Cut-off	February 6, 2012
Final Pretrial Conference	March 12, 2012
3-day Bench Trial	March 26, 2012

1 Dated: May 27, 2011

CHANG & COTÉ

A Limited Liability Partnership

2
3
4 By: /s/ Rodney W. Bell

5 Rodney W. Bell

Audrey L. Khoo

6 Attorneys for Defendants/
7 Counterclaimants EASTERN TOOLS
& EQUIPMENT, INC. and
8 GUOXIANG FAN

9 Dated: May 27, 2011

LEE, TRAN & LIANG A Professional
Law Corporation

10
11
12 By: /s/ Enoch H. Liang

13 Enoch H. Liang

14 Attorneys for Plaintiff Dai Xuchu, as
15 bankruptcy administrator for
16 Changzhou AMEC Eastern Tools &
Equipment Co., Ltd., and for
17 Counterdefendant Changzhou AMEC
Eastern Tools & Equipment Co., Ltd.